

TENTATIVE RULINGS for CIVIL LAW and MOTION

May 13, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

TENTATIVE RULING

Case: **B.E. Giovannetti & Sons v. Sandhu**
Case No. CV CV 07-759

Hearing Date: **May 13, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiff B.E. Giovannetti & Sons' motion to enter default and default judgment is **GRANTED IN PART**. (Code Civ. Proc., § 585, subds. (a)-(c).)

The request to enter default against Robert Kane and The Abbey School/The Abbey Montessori School Woodland is **GRANTED**.

The request to enter default judgment by Court is **DENIED WITHOUT PREJUDICE**. The court cannot enter the default judgment at this time because plaintiff failed to include the mandatory Request for Entry of Default (form CIV-100), along with a declaration with competent evidence in support of the request for an award of attorney's fees as required by California Rule of Court, rule 3.1800.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **In re Kaylee Ann Gray**
Case No. CV PT 09-769

Hearing Date: **May 13, 2009** **Department Fifteen** **9:00 a.m.**

The petitioner and the minor are directed to appear or to show good cause why the petitioner and minor should not be required to appear. (Cal. Rules of Court, rule 7.952.) If the petitioner and the minor choose to show good cause, they should do so by filing a declaration before the hearing setting forth the facts supporting good cause. If the parties fail to appear at the hearing and the court has not excused their personal appearance, the petition will be denied without prejudice. No request for a hearing is required.

TENTATIVE RULING

Case: **Ortiz v. Yuba Community College District**
Case No. CV CV 05-1572

Hearing Date: **May 13, 2009** **Department Fifteen** **9:00 a.m.**

Yuba Community College District's evidentiary objection number 1 is **SUSTAINED**. If Plaintiff files the original signature page for Lynda Lara's declaration prior to or at the hearing, the Court will consider Ms. Lara's declaration and sustain evidentiary objection numbers 2 (only as to the phrase "until my constructive discharge"), 5, 6 and 7. Yuba Community College District's evidentiary objection numbers 9, 10, 13, 15, 21, 23-29, 31-38, 44-50, 54-57, 59-60, 62-64, and 67 are **SUSTAINED**. All other evidentiary objections are **OVERRULED**.

Yuba Community College District's motion for summary adjudication of the first cause of action for violation of the Ralph M. Brown Act is **DENIED**. (Govt. Code, § 54956.9.) Where the existing facts and circumstances causing a local public agency to believe that there is significant exposure to litigation is an incident known to the potential plaintiff, the facts or circumstances must be publicly stated on the agenda or announced. (Govt. Code, § 54956.9.) Neither the agenda nor the minutes for the June 15, 2005, board meeting states the facts or circumstances leading the defendant to believe that there was significant exposure to litigation. Neither the agenda nor the minutes for the June 15, 2005, board meeting reflects that an announcement was made at the June 15, 2005, meeting as to the facts or circumstances leading the defendant to believe that there was significant exposure to litigation. (Defendant's Exhibits O and P.) There is also a triable issue of fact about whether the defendant violated Government Code section 54957.7, subdivision (a) by considering, in closed session, a matter that was not disclosed publicly. Neither the minutes nor the agenda for the June 15, 2005, board meeting states that the board was to meet in closed session to discuss terminating the plaintiff's employment. (District's Exhibits O and P; Ortiz Declaration ¶ 12.)

Yuba Community College District's motion for summary adjudication of the second cause of action for race/national origin discrimination is **GRANTED**. There is no triable issue of material fact concerning discriminatory animus. (Defendant's Separate Statement of Undisputed Material Facts for the second cause of action 1-72; Declaration of Jesse Ortiz.)

Defendant is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

TENTATIVE RULING

Case: **Robinson v. Throne**
Case No. CV CV 09-191

Hearing Date: **May 13, 2009** **Department Fifteen** **9:00 a.m.**

Defendant Don Throne's motion to vacate the temporary restraining order dated February 6, 2009, is **DENIED**. (Code Civ. Proc., § 533.) Defendant has not shown that there has been a material change in the facts upon which the temporary restraining order was granted and at the

time the temporary restraining order was issued, defendant did not demonstrate that he had any interest in the property. (Code Civ. Proc., § 515.010, subd. (b).)

Plaintiff's objections to the Declarations of Don Throne and James Richards are **SUSTAINED**. (Evid. Code, §§ 1200, 1400 and 1401.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.